

### **REMARKS**

Claims 1-26 were previously pending in this application. By this amendment, Applicant is canceling no claims. Claims 1, 2 and 16 have been amended. No new claims have been added. As a result claims 1-26 are pending for examination with claims 1, 2 and 16 being independent claims. No new matter has been added.

#### **Summary of Telephone Conference with Examiner**

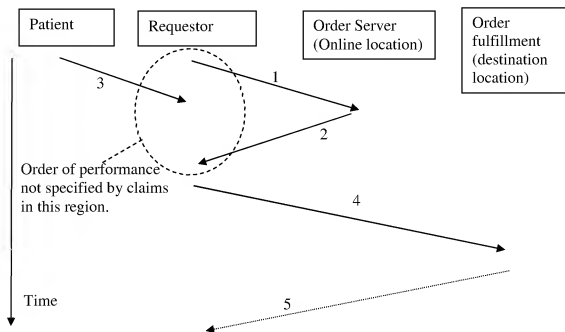
Applicant thanks Examiner Pass for the courtesy of the telephone interview conducted on October 7, 2008, between Applicant's representative, Gary S. Engelson, and Examiner Pass. Although agreement on patentable subject matter was not reached at that time due to the necessity for further searching likely to be triggered by Applicant's amendments to the claims, substantial progress was made as reflected in the foregoing amendments to the claims and the following remarks. The interview covered a minor issue under 35 USC §112 inadvertently introduced during a previous amendment, which is now corrected by further amendment and also covered how the order of performance of steps or acts recited in the claims affects the patentability of the claims. Amendments and remarks are introduced in this paper addressing the issue in detail.

#### **New Issue Under 35 U.S.C. §112**

By a prior amendment, the claims were rewritten to recite, "providing to the requestor a cover letter having an identifier for identifying the order requested from the online location." This language was determined by the Examiner to be indefinite because it defined the identifier in terms of function due to the use of the word "for". The Examiner agreed, during the interview summarized above, that deleting the word "for" appeared to eliminate the problem, and so the Applicant has complied with this suggestion. Each of claims 1, 2 and 16 have been amended to recite, "providing to the requestor a cover letter having an identifier identifying the order requested from the online location," thus rendering the identifier definite. As discussed in the written description at pages 11-13, the cover letter includes an identifier as defined in the claims, examples of which include, but are not limited to, a bar code 604 and an order number section 606.

Rejections Under 35 U.S.C. §103

Claims 1-6, 8-12, 14-18 and 20-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,028,049 to Shelton (hereinafter "*Shelton*") for substantially the same reasons as in the previous Office Action and further in view of U.S. Patent No. 6,463,417 to Schoenberg (hereinafter "*Schoenberg*"). Claims 7, 13 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Shelton*, U.S. Patent No. 7,028,049 and *Schoenberg*, U.S. Patent No. 6,463,417, as applied to claims 1, 2 and 16 above, and further in view of Hacker (hereinafter "*Hacker*"), U.S. Patent No. 6,988,075 for substantially the same reasons as in the previous Office Action. Claims 1, 2 and 16 have been amended, overcoming these rejections.



As amended, each of the independent claims now requires four distinct actions or means for performing those actions, as described below. Quoting from claim 16, the actions are (numbered to refer to the above diagram):

- 1) requesting an order for the patient record concerning the identified patient from the online location;

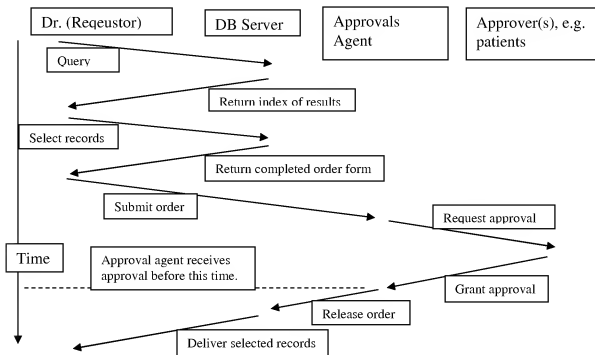
- 2) providing to the requestor a cover letter having an identifier for identifying the order requested;
- 3) providing to the requestor, by the identified patient, a patient authorization letter authorizing release of the patient record concerning the identified patient; and
- 4) sending the cover letter along with the patient authorization letter to a processing center associated with the online location for completing the order.

Claims 1 and 2 additionally require a fifth action or means for performing that action, namely:

- 5) obtaining, by the requestor, the patient record concerning the identified patient from the destination location.

These actions are disclosed, along with the order in which they are to be performed in the written description corresponding to FIG. 4 of the present application. In the example illustrated therein, the requestor is an insurance company, the EHI web site is the order server (online location) and the EHI processing center is the order fulfillment (destination location).

This order of fulfilling sensitive information requests is both novel and non-obvious in view of *Shelton*, even combined with the various references cited and applied in this case. The process disclosed in *Shelton*, cols. 9-13, is illustrated in the below diagram.



There are numerous patentable distinctions between the claimed invention and the disclosure of *Shelton*. A first observation is that the process of *Shelton* requires a far greater number of actions for a doctor (requestor) to order and receive desired patient records than the claimed invention requires for a requestor to receive desired records. A second observation is that even if the actions of the invention are mapped to those of *Shelton*, the actions are performed in different orders.

According to the claimed invention, the requestor consolidates the order with the patient authorization, and the requestor ultimately receives the requested records; whereas, in contrast, *Shelton* discloses that the Approvals Agent consolidates the order as recorded on the order form with approvals received from, e.g., the patient, and then the Approvals Agent instructs release of the ordered records to the doctor requesting them. Thus, according to *Shelton* the person consolidating the order with the approvals and submitting the consolidated package is not the same as the person receiving the requested records. The claimed invention, as the claims have been amended, requires “providing to the requestor a cover letter having an identifier for identifying the order requested from the online location” and “providing to the requestor, by the identified patient, a patient authorization letter authorizing release of the patient record concerning the identified patient,” after which the claimed invention requires “sending, by the requestor to a processing center, after providing to the requestor the cover letter and after providing to the requestor the patient authorization letter, the cover letter along with the patient authorization letter to a processing center, for completing the order” and “in response to the requestor sending the cover letter and the patient authorization letter, after receiving from the requestor the cover letter and the patient authorization letter, requesting, by the processing center, to a shipping location to ship the patient record concerning the identified patient to a destination location.” This sequence of actions clearly maps to the first diagram above, as already set forth, but not to the second diagram above, for the reasons just enumerated. Moreover, it would not be obvious to modify the process of *Shelton* so as to make the claimed invention because to do so would require undesired interaction between the requestor and the patient. The system of *Shelton* is intended to separate the actions of the requestor from the actions of the approver using an Approvals Agent, whereas the present invention finds application where the requestor and the approver are working in close cooperation, such as where the approver is seeking an insurance policy from the requestor for which confirmation of

medical records is required. None of the references cited and/or applied previously disclose, teach or suggest such a modification to *Shelton*, either. Therefore, the claimed invention is non-obvious in view of the art considered.

Accordingly, withdrawal of this rejection is respectfully requested.

### **CONCLUSION**

In view of the foregoing amendments and remarks, entry of Applicant's Request for Continued Examination and remand to the Examiner for reconsideration is respectfully requested. This application should now be in condition for allowance; upon the Examiner's reconsideration, a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an accompanying payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. No. C1151-7000.

Respectfully submitted,  
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